

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

March 31, 1998

DIVISION ONE

B113368 People v. Brewer (Not for Publication)

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

B114913 People (Not for Publication)
v.
Campbell

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B116445 People v. Garcia (Not for Publication)

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

March 31, 1998-Continued

DIVISION ONE (Continued)

[illegible]

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B110225 Varillas (Not for Publication)
v.
Espinoza et al.

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

B118737 Los Angeles County, D.C.S. (Not for Publication)
v.
S.C.L.A.C.

The petition is denied.

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

DIVISION ONE (Continued)

B112991 Pelch (Not for Publication)

v.
City of Los Angeles et al.

The judgment is reversed, and the cause is remanded to the trial court with directions to enter a new judgment granting Pelch's petition for a writ of mandate. Pelch is awarded his costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Ortega, J.

DIVISION TWO

B112250 People (Not for Publication)

v.
Holland

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
 Zebrowski, J.

B116610 Los Angeles County, D.C.S. (Not for Publication)

v.
Broderick M.

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
 Fukuto, J.

March 31, 1998-Continued

DIVISION TWO (Continued)

[illegible]

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
 Fukuto, J.

B108110 Valar, LTD. (Not for Publication)
v.
Olympia Foods, Inc., et al.

The judgment is affirmed.

Nott, J.

We concur: Fukuto, Acting P.J.
 Zebrowski, J.

B112848 People (Not for Publication)
v.
Flores

The Court:

The judgment is affirmed.

Boren, P.J., Fukuto, J., Nott, J.

March 31, 1998-Continued

DIVISION TWO (Continued)

[illegible]

The Court:

The judgment is affirmed.

Fukuto, Acting P.J., Nott, J., Zebrowski, J.

DIVISION THREE

B101568 Doug Colliflower, etc. (Not for Publication)
v.
City of Pasadena, etc. et al.

The judgment is affirmed. Costs awarded to respondent City of Pasadena.

Kitching, J.

We concur: Klein, P.J.
Croskey, J.

B103978 Family Planning Assoc., etc. et al.
v.
S. Kimberly Belshe, etc.

Filed order certifying opinion for publication.

B108137 People (Not for Publication)
v.
Treul

The judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.
Croskey, J.

March 31, 1998-Continued

DIVISION THREE (Continued)

B094861 People (Not for Publication)

V.

Sconce, et al.

The judgments are affirmed.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B108621 People (Not for Publication)

V.

Madison

The judgment is affirmed.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

B108153 People (Not for Publication)

V.

Sikorski

The judgment is affirmed.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION THREE (Continued)

B103522 San Paolo U.S. Holding Company, Inc. (Certified for Partial Publication)
v.
816 South Figueroa Company etc., et al.

The portions of the August 5, 1996 (amended) judgment finding that the fair value of the property was \$3,952,500, the debt owing to the Bank was \$5,494,227.58, and the deficiency remaining after the sale was \$1,541,727.58, are reversed. The matter is remanded to the trial court: (1) to conduct a new section 726 hearing consistent with the definition of fair value determined by the opinion, and, if necessary, determine the correct amount of the deficiency; (2) to recalculate the amount of debt owing to the Bank by including interest charges at the default interest rate under the note, from the date of default, May 7, 1994, through and including the date of the entry of the summary judgment order, August 24, 1995; and, (3) to enter an amended judgment. In all other respects, the (amended) judgment on the appeal and cross-appeal is affirmed. The Bank is awarded costs on appeal.

Kitching, J.

We concur: Klein, P.J.
Croskey, J.

B099494 In Re Security Reprographic Services, Inc. (Not for Publication)
A California Corporation in the Process of
Winding Up and Dissolution of Samuel M.
Broadhead, Compex Systems
v.
Robert P. Mosier

The orders appealed from are affirmed. Costs on appeal to Miller.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION THREE (Continued)

B109566 Miriam Campos, et al. (Not for Publication)
 v.
 Sharon Costello, et al.

The September 13, 1996 order of dismissal is reversed. The September 18, 1996 order and the November 26, 1996 order are affirmed. All parties to bear their own costs on appeal.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

B109115 Robert A. Barzilli, et al. (Not for Publication)
 v.
 Silvana Filippi, et al.

The judgment from which plaintiffs have appealed is affirmed. Costs on appeal to defendant.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

B110747 Stanley F. Adler and Joanne Adler (Not for Publication)
 v.
 11th Street Townhomes Homeowners Association, Inc.

The summary judgment is reversed and the cause is remanded for further proceedings consistent with the views expressed herein. Costs on appeal to plaintiffs.

Croskey, J.

We concur: Klein, P.J.
 Kitching, J.

DIVISION THREE (Continued)

B108329 Candida Quintero, et al. (Not for Publication)
v.
City of South Gate

Section 945.6, subdivision (a)(1) specifically provides that if a governmental entity mails a notice of rejection, the claimant must bring suit within six months from when the written notice was "deposited in the mail." If the Legislature had intended to commence the statute of limitations when the notice of rejection was received, it would have so provided. We affirm the summary judgment.

Kitching, J.

We concur: Croskey, Acting P.J.
Aldrich, J.

B110040 Eugene O. Phillips (Not for Publication)
v.
Gemini Moving Specialists, etc., et al.

The judgment of dismissal is affirmed as to Luni and reversed as to Gemini, and the cause is remanded for further proceedings consistent with the views expressed herein. Plaintiff shall recover his costs on appeal.

Croskey, Acting P.J.

We concur: Kitching, J.
Aldrich, J.

B114718 Washington International Insurance Company (Certified for Publication)
v.
The Superior Court of Los Angeles County
G.K. Backlund, Inc.(r.p.i)

The alternative writ is discharged. The petition for writ of mandate is denied. The matter is remanded to the trial court for further proceedings consistent with this opinion. Each party to bear its own costs.

Croskey, J.

We concur: Klein, P.J.
Aldrich, J.

DIVISION FOUR

B118036 John William Boyd (Not for Publication)

v.
Superior Court, Los Angeles County
(Bice et al., r.p.i.)

The alternative writ and temporary stay order, having served their purpose, are discharged. Let a peremptory writ of mandate issue directing that respondent trial court vacate its order of December 12, 1997, and enter a new order granting petitioner's ex parte application to modify the case-management plan and continuing the trial date for a reasonable time, not less than 120 days from the original date set for trial. Petitioner is awarded costs.

Baron, J.

We concur: Epstein, Acting P.J.
 Hastings, J.

B110182 Garner (Not for Publication)

v.
Farmers Insurance Exchange

The judgment is affirmed. Costs are awarded to respondent.

Hastings, J.

We concur: Vogel (C.S.), P.J.
 Baron, J.

B100100 Webster (Not for Publication)

v.
Royal Maccabees Life Insurance Company

The judgment is reversed and the matter is remanded. Costs are awarded to appellant.

Hastings, J.

We concur: Vogel (C.S.), P.J.
 Czuleger , J. (Assigned)

DIVISION FOUR (Continued)

B111189 City of Los Angeles (Not for Publication)

v.

Amwest Surety Insurance Company

The judgment in favor of Amwest is reversed. The case is remanded with directions to enter judgment for the City and for consideration of appropriate attorney fees and costs. The City is to recover its costs on appeal.

Baron, J.

We concur: Vogel (C.S.), P.J.
 Epstein, J.

B107856 Panda Management Company, Inc. (Certified for Publication)

v.

Wausau Underwriters Insurance Company

The judgment is affirmed. Costs are awarded to respondent.

Hastings, Acting P.J.

We concur: Baron, J.
 Czuleger, J. (Assigned)

B100693 Lopez et al. (Not for Publication)

v.

The People ex rel. California State Department of Transportation

The order denying appellants' amended petition for relief under section 946.6 is reversed. Appellants are awarded their costs.

Baron, J.

We concur: Vogel (C.S.), P.J.
 Czuleger, J. (Assigned)

March 31, 1998-Continued

DIVISION FOUR (Continued)

[illegible]

The Court:

For the foregoing reasons, the judgment is affirmed.

Vogel (C.S.), P.J., Epstein, J., Hastings, J.

DIVISION FIVE

B116504 People (Not for Publication)
v.
Vincent Green

The judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
 Godoy Perez, J.

B108503 People (Not for Publication)
v.
Michael J. Coulter et al.

The section 12022, subdivision (a) enhancements to Counts IV and VI are ordered stricken from appellant Coulter's sentence. Since the abstract of judgment erroneously fails to set out the enhancements separately in section 2, section 1 of the abstract of judgment is ordered corrected to show that Coulter's sentence for Count IV is 1 year, 0 months, and that his sentence for Count VI is 1 year, 0 months. Coulter's total sentence is now 11 years, 2 months.

The sentencing order for appellant Rhodes is reversed and remanded to the court for a new sentencing hearing to consider whether Rhodes should be committed to the CYA.

The judgment of conviction for both appellants is affirmed in all other respects.

Armstrong, J.

We concur: Grignon, Acting P.J.
Godoy Perez, J.

March 31, 1998-Continued

DIVISION FIVE (Continued)

B108292 People (Not for Publication)

V.

Derrick Reynard Gaye

The judgment is affirmed.

Armstrong, J.

We concur: Grignon, Acting P.J.

Godoy Perez, J.

B112347 Peter Jorgenson (Not for Publication)

V.

Harvey A. Birsner etc., et al.

The judgment is affirmed.

Armstrong, J.

We concur: Turner, P.J.

Godoy Perez, J.

B107993 People

V.

Fernando Arellano

Filed order denying petition for rehearing.

B113047 People

V.

Rodney D. Hopson

Filed order denying petition for rehearing.

March 31, 1998-Continued

DIVISION SIX

B112062 Huntley (Not for Publication)
v.
Foster

The judgment is affirmed. Costs are awarded to respondents.

Gilbert, J.

We concur: Stone, P.J.
 Yegan, J.

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The judgment is affirmed.

Coffee, J.

We concur: Stone, P.J.
 Yegan, J.

B106060 People (Not for Publication)
v.
Kirkpatrick

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, Acting P.J.
Yegan, J.

March 31, 1998-Continued

DIVISION SIX (Continued)

[illegible]

The judgment is affirmed.

Coffee, J.

We concur: Stone, P.J.
 Gilbert, J.

B114444 People
v.
Moreaux

Filed order dismissing appeal.

[illegible]

We accordingly modify the judgment to increase appellant's total prison term to 39 years to life. The superior court is ordered to notify the Department of Corrections of the modification. Pursuant to prior case No. B093854, the judgment is otherwise affirmed.

Stone, P.J.

We concur: Gilbert, J.
 Yegan, J.

March 31, 1998-Continued

DIVISION SIX (Continued)

B103714 City of Oxnard et al. (Not for Publication)
v.
Roger M. Donlon et al.

The summary judgment is affirmed. We direct the trial court to adhere to the September 18, 1997 order of the bankruptcy court which precludes respondents from foreclosing, transferring or conveying the property or any interest therein subject to further relief which may be granted by the bankruptcy court upon request therefor. Costs are awarded respondents.

Coffee, J.

We concur: Gilbert, Acting P.J.
 Yegan, J.

B111328 People (Not for Publication)
v.
Whitfield

The judgment is modified to increase the total number of credit days from 711 to 714, as stipulated by respondent. The superior court is ordered to provide notice to the Department of Corrections. As modified, the judgment is affirmed.

Stone, P.J.

We concur: Gilbert, J.
 Yegan, J.

March 31, 1998-Continued

DIVISION SEVEN

B110417 People (Certified for Publication)
v.
Lawrence

The sentence is vacated and the case is remanded for resentencing so that the trial court may exercise its discretion with regard to whether appellant should be sentenced concurrently or consecutively on his several convictions.

Neal, J.

I concur: Lillie, P.J.
I concur and dissent: Woods, J. (Opinion)

B110054 People (Not for Publication)
v.
Sarkisyan

The judgment is affirmed.

Neal, J.

We concur: Lillie, P.J.
Woods, J.

B107229 People (Not for Publication)
v.
Caliendo

The judgment is modified by striking the two stayed Penal Code section 667.5, subdivision (b) enhancements. As modified, the judgment is affirmed.

Neal, J.

We concur: Lillie, P.J.
Woods, J.